



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING  
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January 16, 2013

**TECHNICAL STAFF REPORT**

*Petition Accepted November 9, 2012*

*Hearing Examiner Hearing of January 28, 2013*

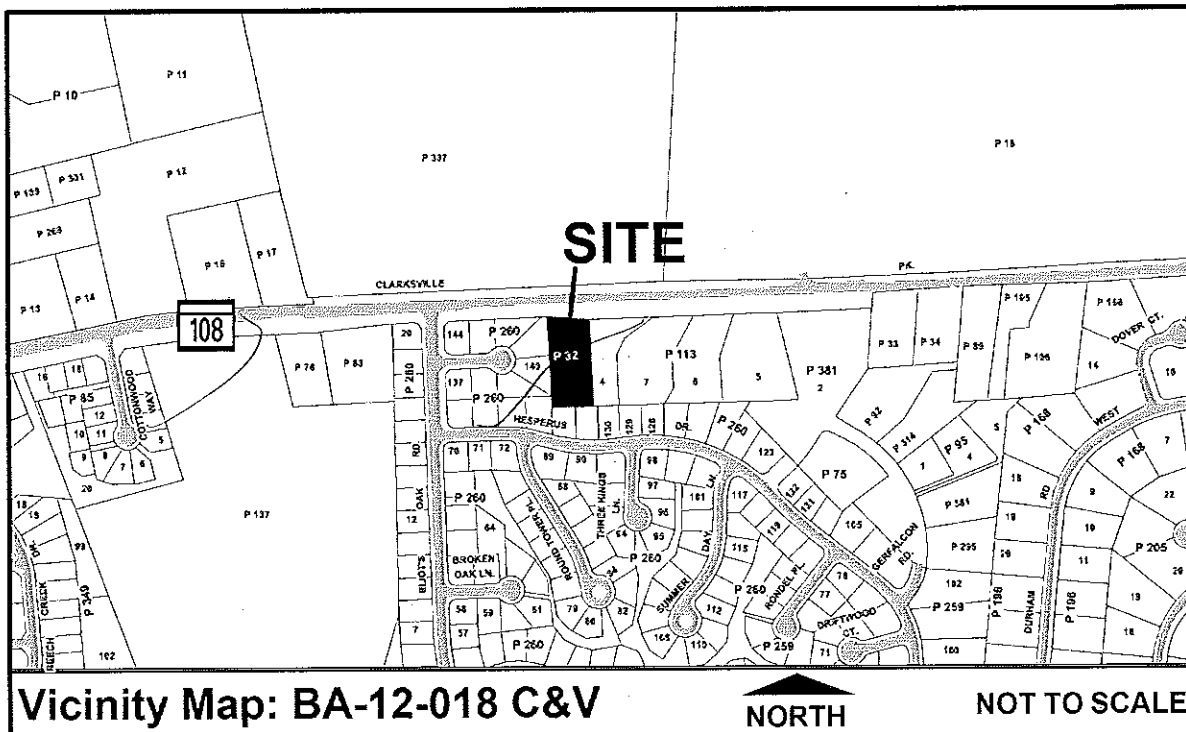
**Case No./Petitioner:** BA-12-018C&V Peralynna Properties, Inc.

**Request:** Conditional Use for a Guest House (Section 131.N.25.1) and a Variance to reduce the 20 foot parking use setback to 10.2 feet (Section 109.D.4.c.(3)).

**Location:** Fifth Election District  
South side of MD 108 approximately 500 feet east of Eliot's Oak Road  
Tax Map 29, Grid 12, Parcel 32; 10605 MD 108 (Clarksville Pike) (the "Property")

**Area of Site:** 1.25 acres

**Zoning:** R-12 (Residential: Single)



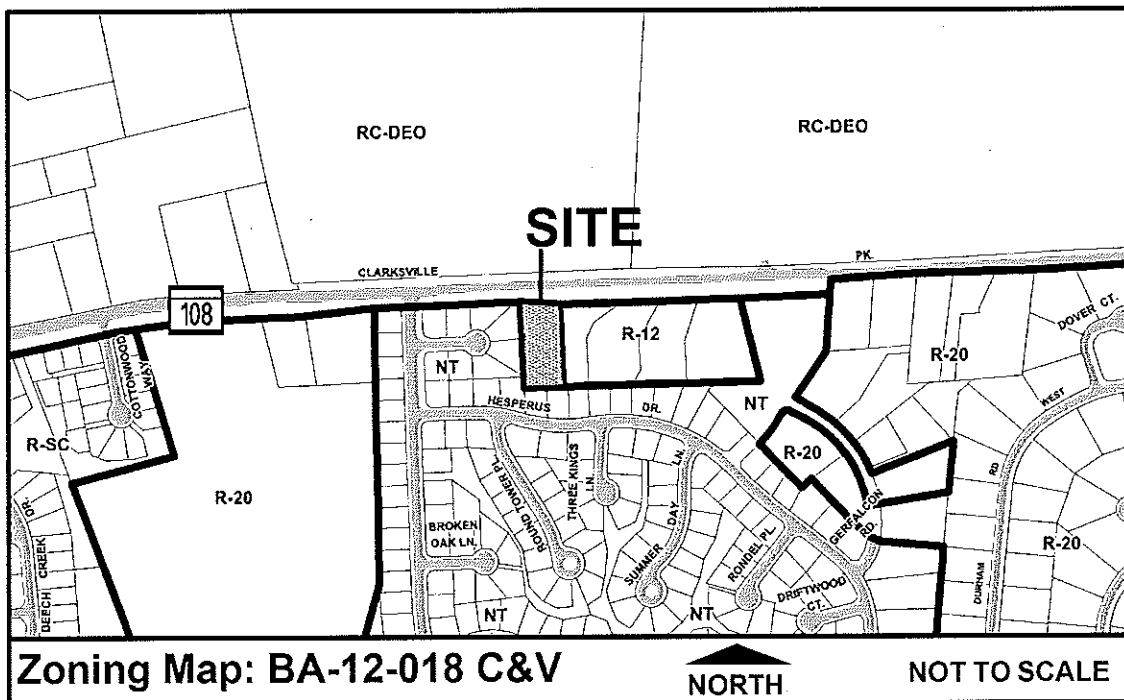
I. CONDITIONAL USE AND VARIANCE PROPOSAL

Currently, the Property is improved with a large structure comprising a single family residence, one accessory apartment and 19 boarding rooms with limited indoor social assemblies.

In May 2001, in Board of Appeals Case No. 00-48E&V<sup>1</sup>, a Special Exception was granted for a Boarding House for up to 19 persons on the Property. Subsequently, the adoption of CB 11-2001 (ZRA 30 effective July, 2001) effectively removed the Boarding House category as a permitted Conditional Use in the R-12 District and the Special Exception became an unconfirmed nonconforming use.

Under the current proposal, the Petitioner seeks approval of a Conditional Use for the operation of a Guest House comprising 19 guest rooms and limited indoor social assemblies ("Events"). The Petitioner also requests a variance to reduce the required parking use setback. There are 29 parking spaces on the Property and 16 of these spaces located along the western side of the Property encroach into the required 20 foot use setback. A variance is requested to reduce the 20 foot use setback to a minimum of 10.2 feet for this encroachment.

According to the petition, guest rooms will be available on both a long term and a short term basis. Guests may receive meals prepared by the Petitioner's chefs; however, no public restaurant use is proposed<sup>2</sup>.



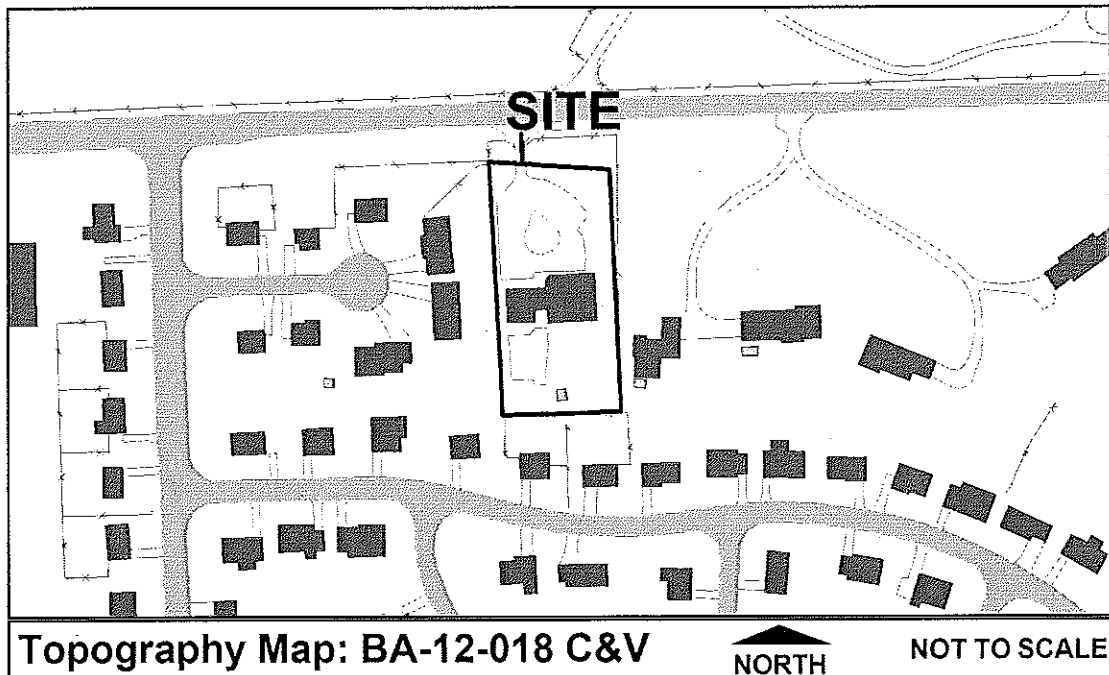
<sup>1</sup> A variance originally requested in BA 00-48E&V for a parking encroachment was subsequently withdrawn by the Petitioner.

<sup>2</sup> The Department of Planning and Zoning requested deferral of the construction of a commercial kitchen until a Decision & Order is issued for the proposed Guest House.

Limited indoor social assemblies (Events): The Guest House would provide a catered venue for Events which may include but are not limited to corporate meetings, corporate retreats, weddings, anniversary/retirement parties, bridal or baby showers, not for profit organization fundraisers, banquets, rehearsal dinners, philanthropic events and other similar events. The Petitioner requests that no limit be placed on the number or frequency of Events having 15 or fewer guests and that a reasonable limit of not less than eight such Events per month is set for events having 15 or more guests. It is noted in the petition that guests attending such Events shall not be permitted to assemble or to hold any portion of the Event outdoors. However, individual overnight guest room occupants will be permitted to utilize outdoor areas of the Property on a casual basis and in a manner not associated with an organized Event.

Noise: The petition includes Exhibit B, a copy of rules posted on the Property to prevent guest noise from disturbing neighbors. Events featuring live music or a disc jockey will not begin before 11:00 a.m. During any such Event the Petitioner will monitor outdoor noise levels with a sound meter at or near property lines to ensure that any noise emanating from Events does not exceed permissible levels as provided by the Howard County Noise Ordinance. All Events will end on or before 10:00 p.m. Sunday through Thursday and before 11:00 p.m. on Friday and Saturday.

Collection of trash and deliveries: The Petitioner proposes to utilize an enclosed dumpster for trash removal services. The dumpster will be enclosed by a solid board on board fence and will be screened from adjoining properties by landscaping. The Petitioner will receive regular deliveries of food and beverages as well as regular delivery and collection of laundry and linens. Trash collection, food and beverage deliveries and laundry and linen collections will occur between the hours of 9:00 a.m. and 5:00 p.m.



Employees and contractors: The Guest House operates in some capacity 365 days per year, 24 hours per day. The number of employees and contractors on site daily varies; however, typically the Guest House is staffed with the following employees: three housekeepers; one chef; two customer service/office staff; one office assistant; one property manager and two owners/operators. It is sometimes necessary for additional staff and/or contractors to be on site; however, the total number of employees and contractors on site would not exceed 15 at any given time.

Residential use: The Property owners would continue to reside on the Property for the foreseeable future. In addition, the Property owners intend to continue to rent one accessory apartment.

## II. BACKGROUND INFORMATION

### A. Site Description

The Property is a rectangular, 1.25 acre parcel located on the south side of MD 108 approximately 500 feet east of Eliot's Oak Road. It is improved with a large multi-story residential building with a portion containing boarding rooms attached by a covered driveway and a large wood deck attached to the building's rear. The structure is located approximately 190 feet from MD 108. According to the plan, the existing footprint is approximately 5,110 square feet and the total floor area is approximately 20,000 square feet. The plan indicates a future kitchen addition is proposed at the southwest corner of the main portion of the building.

Access to the Property is by a short one-lane driveway from an entrance on MD 108 next to the northwest corner. There are concrete walls on both sides of this driveway, and there is a berm approximately five feet high to the east of the driveway. The driveway becomes a wider paved circular driveway and parking area in front of the building; the main portion of this paved area is in the western half of the front yard. There is a landscaped area and pond in the center of the circular driveway, and a lawn area to the east of the paving.

In the rear yard area there are several accessory structures including sheds and a deck. There is a concrete retaining wall approximately 5.5 feet tall along the rear property line. Retaining walls above three feet must comply with setback requirements but there is no record of a variance for this retaining wall.

The topography of the Property is relatively level, sloping down very gradually to the north. The front yard area is predominately open, although there are mature trees located at the MD 108 frontage. In the rear yard there are several mature trees.

### B. Vicinal Properties

The property to the north across MD 108 is zoned RC-DEO and is a large farm. The closest area of this property is a field, and there is a driveway entrance to the northeast of the Property.

To the east of the Property are Lot 4 and Lot 7 of Parcel 113. These lots are zoned R-12 and share a driveway to MD 108 and are improved with single family detached dwellings set back far from that road. The closest dwelling to that side is on Lot 4; that dwelling is located to the southeast of the building on the Property.

Properties to the south are zoned NT, and are improved with single family detached dwellings fronting on Hesperus Drive. The topography of this area slopes down in elevation from the rear of the Property.

To the west of the Property it is also zoned NT with single family detached residential lots fronting on April Day Garth. Lot 140 and 141 directly abut the Property; Lot 140 is improved with a two-story, single family detached dwelling located approximately to the west of the building on the Property and Lot 141 is improved with a one-story single family detached dwelling located to the west of the front parking and circulation area on the Property.

C. Roads

MD 108 has two travel lanes and a variable pavement width in a proposed 80 to 100 foot right-of-way. The posted speed limit is 45 miles per hour.

Visibility from the MD 108 driveway entrance appears to be acceptable to the west, with estimated sight distance of more than 1,000 feet. However, the sight distance to the east appears to be somewhat limited and is estimated to be approximately 300 to 350 feet. Precise sight distance measurements may only be determined through a detailed sight distance analysis, however.

According to data from the State Highway Administration, the traffic volume on MD 108 east of Eliot's Oak Road was 16,721 ADT (average daily trips) as of August, 1993.

D. Water and Sewer Service

The Property is within the Metropolitan District and is within the Existing Service Area of the Howard County Water and Sewerage Master Plan according to the Howard County Geographic Information System maps.

The site is served by public water and sewer.

E. General Plan

The Property is designated Established Community on the Designated Place Types Map of PlanHOWARD 2030.

MD 108 is classified as a Minor Arterial on the Functional Road Classification Map of PlanHOWARD 2030.

F. Agency Comments

See attached comments on the proposal from the following agency:

1. Department of Inspections, Licenses and Permits

The following agencies had no objections to the proposal:

1. Howard County Health Department
2. State Highway Administration
3. Department of Fire and Rescue Services

### III. ZONING HISTORY

- A. Case No.: BA 00-48E&V  
Petitioner: Peralynna Properties, Inc. t/a Peralynna Manor  
Request: Special Exception for a Boarding House for up to 19 persons  
Action: Approved May 3, 2001 with conditions

### IV. EVALUATION AND CONCLUSIONS

A. Evaluation of petition according to Section 131.B. of the Zoning Regulations (General Criteria for Conditional Uses):

1. The proposed Guest House use is requested for a maximum of 19 guest rooms, and would be located in the existing building on the 1.25 acre Property. The proposed use is residential in character and the intensity of the use is estimated to be low given the size of the Property. The Property has access to MD 108, a Minor Arterial. The location and size of the use and size of the site in relation to the use are such that the use will not be incompatible with the land uses and policies for the R-12 District.
2. The residential activity of guests inside the Guest House would not be expected to generate an inordinate amount of noise or other effects detrimental to adjacent properties. The use will not adversely affect vicinal properties.
3. The existing building on the Property complies with the setbacks and height regulations for the R-12 District. The retaining wall along the rear property line appears to not comply with structure setback requirements, however. Landscaping and a solid 5 to 6 foot fence screen and buffer the use, particularly from the existing dwellings to the west. The use will not hinder or discourage the development and use of adjacent land and structures.
4. This criteria is addressed in detail in Section IV.B.9 of this Technical Staff Report. The fence along the west side lot line appears to provide adequate screening and there is sufficient landscaping to provide buffering of the parking areas.
5. It appears the existing ingress/egress drives will continue to provide safe access as the current configuration has existed for many years. Any further evaluation of safety factors would be conducted at the Site Development Plan stage if required.

B. Evaluation of petition according to Section 131.N.25.1 (Specific Criteria for a Conditional Use for a Guest House):

1. The lot is 1.25 acres in size. The petition complies with the Section 131.N.25.1.a. requirement for a minimum lot size of one acre and a maximum lot size of two acres.
2. The petition states that guests attending limited indoor social assemblies shall not be permitted to assemble or to hold any portion of an event outdoors. The petition complies with Section 131.N.25.1.b.
3. The Hearing Authority shall establish limitations on the size and frequency of indoor events with food and drink, considering the size, design and location of the facility in relation to neighboring properties. The Petitioner requests that the Hearing Authority not limit the number or frequency of limited indoor social assemblies having 15 or

fewer guests and that a reasonable limit of not less than eight such events per month is set for events having 15 or more guests.

The petition includes Exhibit B, a copy of the rules posted on the Property to prevent guest noise from disturbing neighbors in accordance with the requirement of this section.

4. The Hearing Authority shall establish limitations on the hours for trash collection and deliveries. The Petitioner proposes that trash collection, food and beverage deliveries and laundry and linen deliveries and collections will occur between the hours of 9:00 a.m. and 5:00 p.m.
5. The front setback for parking shall be the same as the front setback for structures. The petition complies with this section.
6. The petition states that the Property owners will reside on the Property for the foreseeable future. Should a time come when neither owner resides on the Property, the owners will designate a specific owner agent meeting the qualifications listed in Exhibit C, Specific Qualifications of Resident Owner's Agent, to manage the Guest House. The Hearing Authority may permit the owner to reside off-site and allow a specific owner's agent if the Hearing Authority finds that such an arrangement will ensure that the use will be properly maintained and managed in accordance with all criteria and conditions.
7. According to the submitted plan, the existing floor area ration ("FAR") is 0.36 which is below the permitted maximum FAR of 0.5.
8. There are 19 proposed guest rooms. The petition complies with this section.
9. This section requires that on-site parking shall meet, but not exceed, minimum parking requirements for hotel and motel uses. Parking shall be limited to approved paved parking spaces and there shall be no off-site or valet parking.

Section 133 requires one parking space per guest room for hotels and motels which equates to 19 spaces. In addition, two spaces are required for the principal residence and one space is required for the accessory apartment for a total of 22 required spaces.

The parking tabulation on the submitted plan indicates that 19 spaces have been provided for the guest rooms, four spaces have been provided for the residential use and six spaces have been provided for employees and staff. With the provision of 19 parking spaces specifically for the guest rooms, the petition technically complies with this section's requirement for the maximum parking requirements for hotel and motel uses.

However, the total number of existing spaces on the Property exceeds the total required number by seven (due to the provision of six employee/staff spaces which are not required by the Zoning Regulations and one additional space than required for the accessory apartment).

The Narrative submitted with the petition indicates that the 29 existing spaces are needed to accommodate the residential use and Conditional Uses. The request to

which provides that an adjusted amount of parking is permitted at the discretion of the Department of Planning and Zoning based on a parking needs study submitted with the Site Development Plan. The Petitioner requests that existing parking be permitted to remain and intends to submit a parking needs analysis to the Department of Planning and Zoning seeking a determination that a total of 29 spaces is required to serve the uses on the Property.

10. According to the petition, guests may receive meals prepared by the Petitioner's chefs; however, no public restaurant use is proposed. The petition complies with this section.

C. Evaluation of petition according to Section 130.B.2.a of the Zoning Regulations (general criteria for evaluating variances):

1. As justification for the requested variance, the petition states that unique physical conditions including irregularity, narrowness or shallowness of lot or shape, exceptional topography or other existing features of the lot are physical characteristics which create difficulty in complying with bulk regulation requirements.

Specifically, the Petitioner states the existing topography is such that an unusual storm water drainage pattern exists on the site. Water is collected in a strategically located rain garden in the central portion of the circular drive and is piped to collection points along the Property frontage. The large grassy area of the rain garden was necessarily placed in an off-center position within the front yard and without the variance, it would be necessary to relocate the existing parking toward the central area of the site which would eliminate a critical on-site storm water management facility. The site is too small and narrow to accommodate a structured storm water management facility which would be necessary if the parking were required to be moved.

At approximately 150 feet wide and 365 feet long, the Property is not exceptionally narrow or shallow. However, the unusual topography and related storm water management pattern on the site constitute site constraints and unique physical conditions peculiar to the particular lot which would result in practical difficulties or unnecessary hardships in complying strictly with the required setbacks if existing parking spaces were relocated.

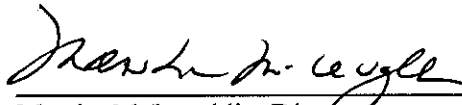
2. The closest point of the encroaching parking spaces would be approximately 50 feet from the closest residential structure on a vicinal property and there is a six foot privacy fence on the Property between the parking area and the residential structures to the west. The encroachment has existed in this location for several years as evidenced in the aerial photography records of Howard County and would not be readily noticeable from roadways or vicinal properties. The variance, if granted, will not alter the essential character of the neighborhood or district in which the site is located; will not substantially impair the appropriate use or development of adjacent properties; and will not be detrimental to the public welfare.
3. The encroachment into the setback is due to the unavailability of other practical areas on the site in which the parking spaces could be practically located. The practical difficulties or hardships have not been directly created by the Petitioner.

4. The requested variance is the minimum necessary to afford relief.

V. RECOMMENDATION

For the reasons stated above, the Department of Planning and Zoning recommends that the request for a Conditional Use for a Guest House and a Variance to reduce the 20 foot parking use setback to 10.2 feet be **APPROVED** subject to the following conditions:

1. The Conditional Use and Variances shall be conducted in conformance with and shall apply only to the Conditional Use for a Guest House and a Variance to reduce the 20 foot parking use setback to 10.2 feet as described in the petition and as depicted on the Conditional Use and Variance Plan submitted on November 9, 2012 and as may be revised by the Hearing Examiner, and not to any other activities, uses, or structures on the Property.
2. The Petitioner must comply with agency comments.

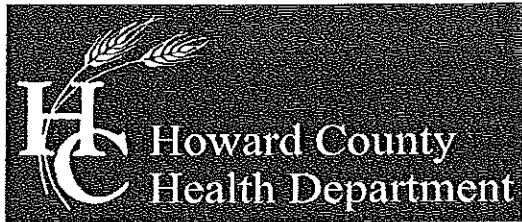


Marsha McLaughlin, Director

Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

MM:ZLK/zlk



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Maura J. Rossman, M.D., Acting Health Officer

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MEMORANDUM

TO: Cindy Hamilton, Chief  
Division of Planning & Zoning Administration

FROM: Michael J. Davis *mjd*  
Assistant Director  
Bureau of Environmental Health

DATE: December 21, 2012

RE: Petition # BA 12-018C&V  
The Columbia Inn at Peralynna

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The Health Department has no objection to the variance and strongly recommends approval of the proposed conditional use for a Guest House. The use has been operating in violation of state regulation due to County Code restrictions prohibiting the construction of a commercial kitchen to serve the facility with nineteen (19) guest rooms. The current food service facility license is due to expire on February 1, 2013. With the hearing date scheduled for January 28, expeditious approval of the conditional use is imperative to avoid any potential interruption in business.

MEMO TO: Department of Planning and Zoning

FROM: Department of Inspections, Licenses and Permits

Petition No.: **BA 12-018C&V**      **Date Due: December 24, 2012**      **Date Rec'd:**

Tax Map No.: **29**      **Block 12**      Parcel: **32**      Lot

Applicant: **Peralynna Properties, Inc**

Location/Address: **10605 Clarksville Pike**

Nature of Petition: **Guest House w 19 Guest Rooms and Indoor Limited Social Assemblies**

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**Approved, subject to the following advisory comments:**

The petitioner shall be advised the provided parking shall include two handicap parking spaces, of which one will be required to be van accessible with an 8 ft. access aisle, in accordance with the Maryland Accessibility code.

James Hobson

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